

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Acquittal Appeal No. 162 of 2010**

The State of Chhattisgarh Through District Magistrate Durg
(CG)

---- Appellant**Versus**

Nandkumar Banjare S/o Late Kartik Ram aged about 50
years, R/o Gondpedri, Tahsil – Patan, District Durg (CG)

---- Respondent

For Appellant	: Shri Lav Sharma, Panel Lawyer
For Respondent	: None

HON'BLE SHRI JUSTICE RAM PRASANNA SHARMA**JUDGMENT ON BOARD****25.10.2018**

1. This appeal is preferred against the judgment dated 31.3.2009, passed by the Special Judge under the Anti Corruption Act, Durg (CG) in Special Case No.01/2007, whereby the said Court has acquitted the respondent of the charges under Section 13 (1) (d) read with Section 13 (2) of the Prevention of Corruption Act, 1988 (for short the Act 1988).
2. As per the case of prosecution, complainant- Dinesh Kumar Joshi, dug a bore-well and bear expenditure of Rs.43,000/- which had to be subsidized. The complainant submits an application for getting subsidy from the department concerned, where the respondent demanded illegal gratification of Rs.6,000/- from the complainant for

clearance of his application. Matter was reported. One trap party was organized and the respondent was trapped by the said party. The matter was investigated and respondent was charge-sheeted. After completion of trial, the trial Court acquitted the respondent of the above charges.

3. Learned counsel for the State submits that demand and acceptance is proved by cogent evidence adduced by the prosecution but the trial Court has not appreciated the evidence in its true perspective, therefore, the finding arrived at by the trial Court is liable to be reversed.
4. In the present case, complainant is Dinesh Kumar Joshi (PW10). He did not support the version of the prosecution in his examination in chief. He was subjected to leading question by the prosecution and he admitted that he took Rs.1000/- in which one currency note of Rs.500/- denomination and 5 currency notes of Rs.100/- denomination were given to the authorities but from his entire evidence it is not established that any demand of illegal gratification was made by the respondent. Again, from his evidence it is not established that illegal gratification was received by the respondent from him. No shadow witness account for demand of illegal gratification and no shadow witness account for acceptance of the said illegal gratification is adduced by the prosecution before the trial Court. Though number of search party have deposed before the trial Court that from solution of sodium carbonate, hands of the

respondent were washed and it turned pink, but the fact remains that whether the respondent accepted the amount knowing it to be illegal gratification. Unless demand and acceptance is proved, the other part which is corroborative piece of evidence is not sufficient to establish the guilt of the appellant.

5. The trial Court has elaborately discussed the entire issue and came to the conclusion that the charge levelled against the respondent is not established. This Court has re-assessed the evidence and found no reason to record a contrary finding as recorded by the trial Court.
6. Accordingly, the appeal is liable to be and is hereby dismissed.

Sd/

(Ram Prasanna Sharma)
JUDGE